



ORDINANCE NO. 3534-17

**An Ordinance Pertaining to Accessory Dwelling Units, Amending
Ordinance No's. 1847-92, 2146-96, 2397-99 and 2503-01, as amended
(EMC Title 15 and 19)**

WHEREAS, The City Council finds the following:

1. The City established zoning regulations in 1992 that allow accessory dwelling units (ADU's) as a secondary dwelling unit on lots in single family zones when located within, or attached to, a principal dwelling unit;
2. The City's zoning regulations do not allow detached ADU's in single family zones;
3. The Everett Zoning Code allows for the establishment of detached "infill dwelling units" within the Historic Overlay zones, which are a detached secondary dwelling unit on a lot, subject to the design standards of the Historic Overlay zone;
4. A citizen has requested that the Planning Commission initiate consideration of an amendment to the Zoning Code to allow for detached ADU's in single family zones;
5. The Planning Commission agreed to consider the requested amendment and directed Planning Department staff to provide information related to the requested amendment;
6. The Planning Commission discussed the potential code amendment and alternative development standards at public workshops on July 17, September 6, October 4 and November 1, 2016; and did take public testimony at each public workshop;
7. The Planning Commission considered a substantial amount of information, including standards for detached ADU's that had been recommended by the Planning Commission in 2009-2010, and the regulations of other cities pertaining to ADU's;
8. The Planning Commission expressed diverse opinions concerning the merits of the proposed code amendments and development standards therefore;
9. The Planning Commission identified preferred standards for most elements of the regulations for ADU's so staff could conduct the State Environmental Policy Act review of the potential impact of the code amendments;

10. Staff prepared a recommendation for the content and format of the proposed code amendments to allow detached ADU's; and
11. The Planning Commission conducted a public hearing on January 3, 2017, to take additional public testimony and consider the staff recommendation, and has recommended that the City Council approve amendments to allow detached ADU's in single family zones.

WHEREAS, the City Council concludes the following:

1. The Planning Commission did provide for substantial public input during its discussion and deliberation process;
2. The Planning Commission has recommended amendments to the Zoning Code to allow for detached ADU's in single family zones, including appropriate review processes and development standards;
3. The proposed amendments are consistent with the relevant provisions of the City of Everett Growth Management Comprehensive Plan;
4. The proposed amendments to the Zoning Code bear a substantial relation to the health, safety and welfare of the Everett community; and
5. The proposed amendments to the Zoning Code promote the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 3 of Ordinance No. 1847-92, as amended (EMC Chapter 19.04, Definitions), definition of "Dwelling unit, accessory," which reads as follows:

"Dwelling unit, accessory" means an additional room or set of rooms located within an owner-occupied single-family dwelling and designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent from the accommodations for the owner's family and subject to the limitations of Section [19.39.020\(D\)](#) of this title.

Is hereby amended to read as follows:

"Dwelling unit, accessory," or "ADU," means a secondary dwelling unit located on the same lot as a single-family dwelling unit that is designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent from the accommodations for the principal dwelling unit. An "attached" accessory dwelling unit is attached to or located

within a principal dwelling unit. A “detached” accessory dwelling unit (DADU) is detached from the principal dwelling unit.

Section 2. Section 3 of Ordinance No. 1847-92, as amended (EMC Chapter 19.04, Definitions), is hereby amended by the addition of the following definition:

“Dwelling unit, principal” means the larger or main dwelling unit located on a lot which also contains an accessory dwelling unit.

Section 3. Table No. 5.1 of Section 36 of Ordinance No. 2397-99, as amended, (EMC 19.05, Use Table No. 5.1), which reads, in part, as follows:

Table 5.1 Residential uses.

ZONE					R-1(A)			R-4		B-2	B-				C-1		C-2					
USE	A-1	R-S	R-1	R-2	R-2(A)	R-3(L)	R-3	R-5	B-1	B-2(B)	3	BMUE	E-1	MUO	C-1R	C-2	ES	WC	M-S	MM	M-1	M-2
Accessory dwelling unit (21)	I(1)	I(1)	I(1)	I(1)	I(1)																	

Is hereby amended to read as follows:

ZONE					R-1(A)			R-4		B-2	B-				C-1		C-2					
USE	A-1	R-S	R-1	R-2	R-2(A)	R-3(L)	R-3	R-5	B-1	B-2(B)	3	BMUE	E-1	MUO	C-1R	C-2	ES	WC	M-S	MM	M-1	M-2
Accessory dwelling unit (21)	I(1)	I(1)	I(1)	I(1)																		

Section 4. Section 36 of Ordinance No. 2397-99, as amended (EMC 19.05, Use Table No. 5.1), Special Regulation (1), which reads as follows:

- (1) See Section 19.39.020.D for regulations pertaining to accessory dwelling units.

Is hereby amended to read as follows:

- (1) See Section 19.07.030 for regulations pertaining to accessory dwelling units.

Section 5. Section 36 of Ordinance No. 2397-99, as amended (EMC 19.05, Use Table No. 5.1), Special Regulation (21), which reads as follows:

(21) Accessory dwelling units and duplexes are not permitted on lots within easement access short subdivisions, except for existing duplexes as provided under Chapter 18.28.

Is hereby amended to read as follows:

(21) Duplexes are not permitted on lots within easement access short subdivisions, except for existing duplexes as provided under Chapter 18.28.

Section 6. Section 47 of Ordinance No. 1849-92, as amended (EMC 19.39.020.D), which reads as follows, is hereby repealed.

Section 7. Ordinance No. 2146-96, as amended, is hereby amended by the addition of the following, which shall be codified as Everett Municipal Code Section 19.07.030:

7.030 Accessory Dwelling Units. The regulations in this section shall apply to Accessory Dwelling Units (ADU's), whether attached or detached. The term "ADU" as used in this section shall apply to either attached or detached accessory dwelling units. The term "DADU" as used in this section shall apply only to detached accessory dwelling units. In the event there is a conflict between the provisions of this section or any other provision of the EMC, the provisions of this section shall control.

- A. Accessory Dwelling Units (ADU's), Where Permitted. An ADU shall be permitted as an accessory use to the principal dwelling unit in the zones indicated in Use Table #5.1 on any legally established lot, provided it complies with the provisions of this section. In the Core Residential Area and other zones that allow single family attached or multiple family dwellings, the development standards applicable to those zones shall apply to development of more than one dwelling on a lot rather than this section.
- B. Review Process. ADU's shall be permitted subject to Review Process I as defined in Title 15 of the Everett Municipal Code.
- C. Owner Occupancy Required. Either the principal dwelling unit or the ADU shall be occupied by the owner of the property as his or her principal residence. Prior to issuance of a permit for an accessory dwelling unit, the property owner shall submit to the City a signed affidavit affirming that the owner occupies the principal dwelling as his or her principal residence, and will occupy either the principal dwelling or accessory dwelling after completion of the accessory dwelling unit. The owner shall record a covenant with the Snohomish County Auditor, approved by the director, that shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Snohomish County Auditor's office prior to issuance of the building permit.

- D. An ADU shall not be segregated from the ownership of the principal dwelling through a subdivision, condominium, or any other process.
- E. Only one ADU is permitted on a lot.
- F. An ADU shall not be permitted on a lot with more than one dwelling unit.
- G. Off-street parking.
 - 1. A minimum of one off-street parking spaces above what is required for the principal dwelling shall be provided for the ADU.
 - 2. When abutting an alley, the required parking for the principal and accessory dwelling units shall be accessed from the alley, unless there is an existing legally established driveway connecting to a public street.
 - 3. The requirement for one off-street parking space for the ADU may be waived by the Planning Director, using Review Process II as defined in Title 15 of the Everett Municipal Code, when all of the following circumstances apply:
 - a. The property is not located in a Residential Parking Permit zone (EMC 46.30); and
 - b. The property has frontage on a public street; and
 - c. There are at least two on-street parking spaces in front of the subject property; and
 - d. There is a public transit stop located within one-quarter mile walking distance of the property with a safe walking path to the transit stop.
- H. The property owner shall certify to the City no later than April 1st of each year that the owner occupies one of the dwellings as his or her principal residence. Any person who fails to report or falsely certifies that he or she resides in a dwelling unit at the stated address shall be subject to the enforcement and penalty provisions of EMC Chapter 1.20.
- I. A permit for an ADU shall automatically expire, and the building shall be brought into conformance with the zoning code, whenever:
 - 1. The ADU is substantially altered and is no longer in conformance with the standards of this section;
 - 2. The owner ceases to reside in either the principal or the accessory dwelling unit.

- J. An ADU shall not exceed 75% of the gross floor area of the principal dwelling, or 800 square feet, whichever is less.
- K. Minimum rear setback.
1. Alley lots. An ADU shall have no minimum rear setback.
 2. Non-Alley Lots. 20 feet, provided that the City, using Review Process II as defined in Title 15 of the Everett Municipal Code, may allow a DADU to have a minimum rear setback of 5 feet if the building does not exceed 18 feet in height within the rear 20 feet of the lot.
- L. Building Height. The maximum permitted building height for a detached ADU shall be:
1. Alley lots. 24 feet. .
 2. Non-alley Lots. 24 feet, provided however, that the maximum height shall not exceed 18 feet in height when located within the rear 20 feet of the lot.
 3. The Planning Director may authorize a greater height limit to match existing roof pitch of the principal dwelling using Review Process II as defined in Title 15 of the Everett Municipal Code, up to a maximum height of 28 feet.
- M. Lot Coverage. The maximum lot coverage standard for the underlying zone shall apply to all buildings on the lot, provided that it may be increased, using Review Process II as defined in Title 15 of the Everett Municipal Code, by an additional five percent of the lot area if necessary to allow a DADU on an existing developed lot that meets all other requirements of this section.
- N. Design Standards. An ADU shall meet the design standards in this section. A property owner may request that the Planning Director modify the design standards, using Review Process II as defined in Title 15 of the Everett Municipal Code. The Planning Director shall consider the impact that the requested modification will have on abutting properties in terms of aesthetics, privacy, view impacts, and compatibility with the character of other dwellings.
1. Attached ADU's. The single-family appearance and character of the dwelling shall be maintained when viewed from the surrounding neighborhood. Only one entrance to the residential structure may be located on any street side of the structure; provided however, that this limitation shall not affect the eligibility of a residential structure which has more than one entrance on the front or street side on the effective date of the ordinance codified in this section.
 2. Historic Overlay Zones. On lots located in the Historic Overlay Zone, an attached ADU shall comply with the standards of subsection 1 of this section. A DADU shall

comply with the development and design standards of the H Overlay Zone for Infill Dwelling Units.

3. Detached ADU's. The Planning Director shall promulgate a design manual of examples and best practices for the design of DADU's and compatibility with the surrounding neighborhood. The City shall have the authority to require changes to the design of a DADU that is not consistent with best practices identified in the design manual. In addition:
 - a. The DADU shall be designed to give the appearance that it is secondary to the principal dwelling.
 - b. Siding, roofing, windows and building trim materials shall visually match those used on the principal dwelling.
 - c. The roof pitch shall be similar to the predominant roof pitch on the principal dwelling.

O. Legalization of Illegal ADU's.

1. An illegal ADU is an ADU which does not fully comply with the provisions of this Section and all other applicable codes. An illegal ADU, whether attached or detached, may be legalized provided it can be made to fully comply with the provisions of this Section and all other applicable codes.
2. If the property owner takes all actions necessary to legalize the ADU within two years of the effective date of this section, the additional fees required by EMC 16.72.070 shall be waived.

Section 8. Section 3(B) of Chapter 4 of Ordinance No. 2530-01, as amended (EMC 15.16.080, Decisions Included), is hereby amended by the addition of the following:

Accessory Dwelling Units - waiver of off-street parking; reduction of rear setback for non-alley lots; increase in allowable lot coverage by building; or modification of design standards as provided in EMC 19.07.030.

Section 9. Section 14 of Ordinance No. 1923-93, as amended (EMC 19.33.430), which reads as follows:

Infill dwellings in rear yards.

In a historic overlay zone, rear yard infill dwellings are allowed only on the same lot as a residential structure or a vacant lot existing at the time of original adoption of the historic overlay zone. Infill dwellings are intended to allow increased density while preserving historic buildings. Infill dwellings are permitted in the R-3H and R-4H zones and in the R-2H zone on lots large enough to allow a duplex. Infill dwellings are subject to the following standards:

- A. The rear yard area shall be a minimum of two thousand square feet prior to construction of the infill dwelling(s).
- B. There shall be a minimum separation of eighteen feet between the existing dwelling and infill dwellings.
- C. The minimum setback for corner lot infill dwellings shall be determined by the orientation of the dwelling. The setback for buildings oriented towards the numbered cross streets shall be calculated by taking the average of the setbacks of the adjacent properties. The setback calculation for corner infill dwellings oriented towards Norton or Grand Avenues shall be determined by the corner setback of the primary dwelling.
- D. The minimum rear setback shall be three feet from the rear lot line.
- E. Infill dwellings are allowed a height up to twenty-four feet in the R-2H and R-3H zones and thirty-four feet in the R-4H zone.
- F. On lots without alley access, on-site parking for infill dwellings must use the same curb cut as the existing house.
- G. Parking standards for infill dwellings are contained in Chapter [19.34](#).

Is hereby amended to read as follow:

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D. The minimum rear setback shall be three feet from the rear lot line.

E. Infill dwellings are allowed a height up to twenty-four feet in the R-2H and R-3H zones and thirty-four feet in the R-4H zone.

F. On lots without alley access, on-site parking for infill dwellings must use the same curb cut as the existing house.

G. Parking standards for infill dwellings are contained in Chapter [19.34](#).

Section 10. Section 14 of Ordinance No. 1923-93, as amended (EMC 19.33.430), which reads as follows:

Infill dwellings in rear yards.

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A. The rear yard area shall be a minimum of two thousand square feet prior to construction of the infill dwelling(s).

B. There shall be a minimum separation of eighteen feet between the existing dwelling and infill dwellings.

C. The minimum setback for corner lot infill dwellings shall be determined by the orientation of the dwelling. The setback for buildings oriented towards the numbered cross streets or Cedar, Pine, Maple or Walnut Streets shall be calculated by taking the average of the setbacks of the

adjacent properties. The setback calculation for corner infill dwellings oriented towards the same street as the primary dwelling shall be determined by the corner setback of the primary dwelling.

D. The minimum rear setback shall be three feet from the rear lot line.

E. Infill dwellings are allowed a height up to twenty-four feet in the R-2H and R-3H zones and thirty-four feet in the R-4H zone.

F. On lots without alley access, on-site parking for infill dwellings must use the same curb cut as the existing house.

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A. The rear yard area shall be a minimum of two thousand square feet prior to construction of the infill dwelling(s).

B. There shall be a minimum separation of eighteen feet between the existing dwelling and infill dwellings.

C. The minimum setback for corner lot infill dwellings shall be determined by the orientation of the dwelling. The setback for buildings oriented towards the numbered cross streets or Cedar, Pine, Maple or Walnut Streets shall be calculated by taking the average of the setbacks of the adjacent properties. The setback calculation for corner infill dwellings oriented towards the same street as the primary dwelling shall be determined by the corner setback of the primary dwelling.

D. The minimum rear setback shall be three feet from the rear lot line.

E. Infill dwellings are allowed a height up to twenty-four feet in the R-2H and R-3H zones and thirty-four feet in the R-4H zone.

F. On lots without alley access, on-site parking for infill dwellings must use the same curb cut as the existing house.

G. Parking standards for infill dwellings are contained in Chapter [19.34](#).

Section 10: Severability. Should any section, subsection, sentence, clause, phrase or word of this Ordinance be held to be invalid or unconstitutional by a court of competent jurisdiction, or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 11: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 12: Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 13: General duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision nor any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Section 14: Savings. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or before the City or in any way modify any obligation, right or liability, civil or criminal, which may exist by virtue of any of the ordinances herein repealed.


RAY STEPHANSON, Mayor

ATTEST:


City Clerk - Deputy

Passed: 2/15/2017

Valid: 2/21/2017

Published: 2/25/2017

Effective Date: 3/8/2017